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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,599	05/15/2006	Zoltan Zomotor	8009-88090	2720
42798	7590	12/23/2008	EXAMINER	
FITCH, EVEN, TABIN & FLANNERY			MARC, MCDIEUNEL	
P. O. BOX 18415				
WASHINGTON, DC 20036			ART UNIT	PAPER NUMBER
			3664	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/573,599	ZOMOTOR, ZOLTAN	
	Examiner	Art Unit	
	MCDIEUNEL MARC	3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 May 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-11 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 24 March 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. The application filed on 03/24/2006 has been examined. Claims 1-11 are pending.
2. The information disclosure Statement (IDS) filed 03/24/2006 has been considered as indicated. Note the search reports are treated as statements of relevancy of the cited patent documents and/or publications and do not constitute prior art in and of themselves.

Specification

3. The abstract of the disclosure is objected to because of the word “invention” that has been mentioned twice in the abstract. Correction is required. See MPEP § 608.01(b).
4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant’s use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase “Not Applicable” should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.

- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A “Sequence Listing” is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required “Sequence Listing” is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-8 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Haydu (US 4895116).

As claims 1 and 11, Haydu 4895116 teaches safety device for motor vehicles that contains a *method for preventing unintended acceleration of a vehicle* (see col. 2, line 67 – to – col. 3, line -8), *in which a first actuation variable which describes actuation (V_{FB}) of a driving operating element (31) which is provided for influencing drive means (35) of the vehicle is determined* (see col. 4, lines 22-32), *and in which the vehicle remains unaccelerated if an idling condition which is dependent on the first actuation variable which is determined is fulfilled, characterized in that* (see Abs.), *in addition to the first actuation variable, a second actuation variable which describes actuation (V_{BB}) of a brake operating element (34) which is provided for influencing braking means of the vehicle is determined* (see Abs., wherein activation and deactivation have considered as first and second actuation), *the idling condition also being dependent on the second actuation variable which is determined* (see Abs., wherein having a motor vehicle to move from its idle position to any position selected by the operator upon later application of an operating force to the accelerator pedal, has been considered as predetermined function).

As claim 2, Haydu 4895116 teaches safety device for motor vehicles *wherein the first actuation variable describes an actuation speed (V_{FB}) of the driving operating element (31)* (see Fig. 2), *and/or in that the second actuation variable describes an actuation speed (V_{BB}) of the brake operating element (34)* (see Abs.).

As claim 3, Haydu 4895116 teaches safety device for motor vehicles *wherein a dead time variable which describes the time (Δt) between the end of actuation of the brake operating*

element (34) and the start of subsequent actuation of the driving operating element (31) is determined, the idling condition also being dependent on the dead time variable which is determined (see col. 2, lines 52-53).

As claim 4, Haydu 4895116 teaches safety device for motor vehicles *wherein the idling condition is fulfilled if by evaluating the first and second actuation variables it is determined that the actuation speed (V_{BB}) of the brake operating element (34) exceeds a first actuation threshold value ($V_{BB, ref}$) which is predefined for the brake operating element (34), and in that the actuation speed (V_{FB}) of the driving operating element (31) exceeds a second actuation threshold value ($V_{FB, ref}$) which is predefined for the driving operating element (31)(see col. 2, lines 54-66).*

As claim 5, Haydu 4895116 teaches safety device for motor vehicles *wherein a dead time variable which describes the time (Δt) between the end of actuation of the brake operating element (34) and the start of subsequent actuation of the driving operating element (31) is determined, the idling condition also being dependent on the dead time variable which is determined; and the idling condition is fulfilled if by evaluating the dead time variable it is also determined that the time (Δt) described by the dead time variable drops below a predefined time threshold value (Δt_{ref}) (see col. 2, lines 54-66, wherein manual operation of the gear train from park or neutral into a drive position has been considered as driving state variable; and the gear change being considered done in function of time).*

As claim 6, Haydu 4895116 teaches safety device for motor vehicles *wherein the idling condition is dependent on at least one driving state variable which describes the driving state of*

the vehicle (see col. 2, lines 54-66, wherein manual operation of the gear train from park or neutral into a drive position has been considered as driving state variable).

As claim 7, Haydu 4895116 teaches safety device for motor vehicles *wherein a first driving state variable which describes the velocity (V_f) of the vehicle is determined, the idling condition being fulfilled if by evaluating the first velocity variable it is also determined that the velocity (V_f) drops below than a predefined velocity threshold value ($V_{f,ref}$)* (see col. 2, lines 54-66, wherein manual operation of the gear train from park or neutral into a drive position has been considered as driving state variable and by design choice any mathematical variable or unit can be used).

As claim 8, Haydu 4895116 teaches safety device for motor vehicles *wherein a second driving state variable which describes the distance (d) between the vehicle and an obstacle which is located in the direction of travel of the vehicle is determined, the idling condition being fulfilled if by evaluating the second driving state variable it is also determined that the distance (d) drops below a predefined distance threshold value (d_{ref})* see col. 2, lines 54-66, wherein manual operation of the gear train from park or neutral into a drive position has been considered as driving state variable and by design choice any mathematical variable or unit can be used).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Haydu (US 4895116) in view of Minowa et al. (US 6622079).

As claims 9 and 10, Haydu 4895116 teaches essential feature of the invention substantially as claimed, but Haydu fail to teach a method *wherein the distance threshold value (d_{ref}) is determined as a function of the velocity (V_f) of the vehicle or the relative velocity (V_{ref}) between the vehicle and the obstacle; wherein a third driving state variable which describes the relative velocity.*

Minowa et al. US 6622079 teaches a traveling method *wherein the distance threshold value (d_{ref}) is determined as a function of the velocity (V_f) of the vehicle or the relative velocity (V_{ref}) between the vehicle and the obstacle* (see Figs. 1, 10 and col. 1, lines 40-58); *wherein a third driving state variable which describes the relative velocity (V_{ref})*(third driving state has been considered as being placed on a gear lower than driving).

It would have been obvious to a person of ordinary skill in the art at the time of the invention modify the vehicle type of Haydu with the traveling type of Minowa et al., because this modification would have enhanced the vehicle of Haydu with the relative velocity teaching of Minowa et al. in order to secure safe of an own vehicle by detecting the distance between the own vehicle and a vehicle including an obstacle, thereby improving the efficiency and the safety of the method of preventing unintended acceleration of a vehicle.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited documents are of general interest.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MCDIEUNEL MARC whose telephone number is (571)272-6964. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571) 272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/McDieunel Marc/
Examiner, Art Unit 3664

Tuesday, December 09, 2008

/KHOI TRAN/
Supervisory Patent Examiner, Art Unit 3664